

REMARKS

Claims 2, 4, 12, 14, 22, and 24 have been cancelled. Claims 1, 11, and 21 have been amended to include the limitations of now canceled claims 2, 12, and 22. Thus, no new matter has been added. Claims 1, 3, 5-11, 13, 15-21, 23, and 25-30 are now pending in the present application. Applicants respectfully request reconsideration of the present application in view of the preceding amendments and the reasons that follow.

I. Rejection of Claims 1, 11, and 21 under 35 U.S.C. § 102(b) and rejection of Claims 2, 4, 12, 14, 22, and 24 under 35 U.S.C. § 103(a)

On page 2 of the Office Action, claims 1, 11, and 21 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,619,364 (Czopor). Claims 1, 11, and 21 have been amended to include the limitations of now canceled claims 2, 12, and 22. On page 4 of the Office Action, claims 2, 4, 12, 14, 22, and 24 were rejected under 35 U.S.C. 103(a) as being unpatentable over Czopor. Applicants respectfully traverse these rejections. At a minimum, the Examiner has failed to demonstrate that Czopor discloses, teaches, or suggests all of the claim limitations as recited in claims 1, 11, and 21.

Claim 1, as amended, recites:

a reinforcement rib extending from a first edge of the ceiling to a second edge of the ceiling, the second edge opposed to the first edge;

Claim 11, as amended, recites:

a reinforcement rib extending from the front cover wall to the back cover wall;

Claim 21, as amended, recites:

a reinforcement rib extending from a first edge of the ceiling to a second edge of the ceiling, the second edge opposed to the first edge;

On page 4 of the Office Action dated 5/16/2006, the Examiner states:

Claims 2, 4, 12, 14, 22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Czopor '364.

With respect to claims 2, 4, 12, 14, 22 and 24, Official notice is taken that it is old and conventional to provide reinforcement ribs in a cover (extending in any direction across the interior cover surface) to reinforce structural integrity and provide additional support against impact forces that may damage the contents of the holder.

Applicants respectfully disagree. Applicants respectfully request that Examiner provide documentary evidence to support these statements. According to MPEP § 2144.03(A):

Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known.

...

It is never appropriate to rely solely on “common knowledge” in the art without evidentiary support in the record, as the principal evidence upon which a rejection was based.

The elements asserted are not well-known and capable of instant and unquestionable demonstration as being well known as required under MPEP § 2144.03(A). The formation of reinforcement ribs in a cover formed of a single sheet of thin, flexible, thermoformed plastic material is not obvious to one of ordinary skill in the art. The formation of containers using a single sheet of thin, flexible, thermoformed plastic material is an active research area due to the unique requirements associated with forming such containers.

On page 6 of the Office Action, the Examiner makes of record, but does not rely on U.S. Patent Publication No. 2001/0006153 (Merrell et al.). Merrell et al. states “that a plurality of rounded ribs 30 extend out from upper and lower molded-sheet portions 12 and 14 of the package, and more specifically from domes 24 and 26.” (Paragraph [0040]). Merrell et al. also states that “the package is a unitary, one-piece article, which is integrally formed by vacuum molding a plastic sheet.” (Paragraph [0029], emphasis added through underlining). Merrell et al.

also further states “that the optimum arrangement of these protrusions must be determined empirically on a case-by-case, trial-and-error basis.” (Paragraph [0046]). Merrell et al. fails to disclose, suggest, or teach reinforcement ribs in a cover formed of a single sheet of thin, flexible, thermoformed plastic material and further indicates that the arrangement of such ribs “must be determined empirically on a case-by-case, trial-and-error basis.” Thus, it is not old and conventional to provide reinforcement ribs in a cover particularly when formed in a cover of a single sheet of thin, flexible, thermoformed plastic material.

As the Examiner recognizes, Czopor fails to disclose, suggest, or teach “a reinforcement rib extending from a first edge of the ceiling to a second edge of the ceiling.” As a result, Czopor fails to disclose, suggest, or teach all of the limitations of claims 1, 11, and 21. An obviousness rejection cannot be properly maintained where the reference used in the rejection does not disclose all of the recited claim elements. Applicants respectfully traverse any arguments posed by the Examiner relative to claims 3, 5-10, 13, 15-20, 23, and 25-30 which depend from claims 1, 11, and 21, respectively, as claims 3, 5-10, 13, 15-20, 23, and 25-30 are allowable for at least the reasons outlined above relative to claims 1, 11, and 21. Therefore, Applicants respectfully requests withdrawal of the rejection of claims 1, 3, 5-11, 13, 15-21, 23, and 25-30.

II. Rejection of Claims 3, 5, 6, 13, 15, 16, 23, 25, and 26 under 35 U.S.C. § 103(a)

On page 4 of the Office Action, claims 3, 5, 6, 13, 15, 16, 23, 25, and 26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Czopor in view of U.S. Patent No. 5,012,928 (Proffitt et al.). Applicants respectfully traverse this rejection because the Examiner has failed to present a *prima facie* case of obviousness. At a minimum, the Examiner has failed to demonstrate that Czopor and Proffitt et al., alone or in combination, disclose, teach, or suggest all of the claim limitations as recited in claims 3, 5, 6, 13, 15, 16, 23, 25, and 26.

As discussed in Section I. above, Czopor fails to teach at least the limitation “a reinforcement rib extending from a first edge of the ceiling to a second edge of the ceiling” as required by claims 1, 11, and 21. Proffitt et al. also fails to teach at least the limitation “a reinforcement rib extending from a first edge of the ceiling to a second edge of the ceiling” as

required by claims 1, 11, and 21. As a result, neither Proffitt et al. nor Czopor disclose, suggest, or teach all of the limitations of claim 1, 11, and 21. An obviousness rejection cannot be properly maintained where the references used in the rejection do not disclose all of the recited claim elements. Therefore, Applicants respectfully request withdrawal of the rejection of claims 3, 5, 6, 13, 15, 16, 23, 25, and 26 which depend from claims 1, 11, and 21.

III. Rejection of Claims 7-10, 17-20, and 27-30 under 35 U.S.C. § 103(a)

On page 5 of the Office Action, claims 7-10, 17-20, and 27-30 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Czopor in view of Proffitt et al. and further in view of U.S. Patent No. 4,674,628 (Prinsloo et al.). Applicants respectfully traverse this rejection because the Examiner has failed to present a prima facie case of obviousness. At a minimum, the Examiner has failed to demonstrate that Czopor, Proffitt et al., and Prinsloo et al., alone or in combination, disclose, teach, or suggest all of the claim limitations as recited in claims 7-10, 17-20, and 27-30.

As discussed in Sections I. and II. above, Czopor and Proffitt et al. fail to teach at least the limitation “a reinforcement rib extending from a first edge of the ceiling to a second edge of the ceiling” as required by claims 1, 11, and 21. Prinsloo et al. also fails to teach at least the limitation “a reinforcement rib extending from a first edge of the ceiling to a second edge of the ceiling” as required by claims 1, 11, and 21. As a result, neither Prinsloo et al., Proffitt et al., nor Czopor disclose, suggest, or teach all of the limitations of claim 1, 11, and 21. An obviousness rejection cannot be properly maintained where the references used in the rejection do not disclose all of the recited claim elements. Therefore, Applicants respectfully request withdrawal of the rejection of claims 7-10, 17-20, and 27-30 which depend from claims 1, 11, and 21.

Additionally, on pages 5-6 of the Office Action dated 5/16/2006, the Examiner states:

With respect to claims 8, 9, 18, 19, 28 and 29, while Czopor as modified does not disclose that the common distance is at a midpoint of the length or offset from the midpoint by one-quarter of the length, it would have been an obvious matter of design choice . . . , since Applicant has not disclosed that by doing so solves any state problem or is for any particular purpose and it

appears that the invention would perform equally well (gripping the contents) with the staggered protrusion arrangement

With respect to claims 10, 20 and 30, while Czopor as modified does not disclose that the first and second receptacle walls have integral third and fourth protrusions at a distance offset from the midpoint by one-quarter of the length, it would have been obvious to one of ordinary skill in the art ... to include additional protrusions within the receptacle ..., since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Applicants respectfully disagree. The protrusions assist in "holding name badges." Czopor discloses a package for a set of twist drill bits. (Abstract). Contrary to the twist drill bits of the Czopor package, the name badges are held upright and should generally be held straight and level. Staggered protrusions may bend the name badges as known to those skilled in the art. Thus, Applicants did disclose a particular purpose for the invention, and the invention would not perform equally well with the single protrusion of Czopor. Therefore, Applicants respectfully request withdrawal of the rejection of claims 8-10, 18-20, and 28-30.

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2350. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2350. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37

C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2350.

Respectfully submitted,

By Callie Bell

Callie M. Bell
Attorney for Applicants
Registration No. 54,989

Date August 16, 2006

FOLEY & LARDNER LLP
Customer Number: 23524
Telephone: (608) 258-4263
Facsimile: (608) 258-4258